

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Nicholas Queen, # 29623-037,) C/A No. 2:11-800-SB-BHH
)
Plaintiff,)
)
v.) <u>ORDER</u>
)
)
United States Bureau of Prisons, and)
Jamie Swann, Case Manager of the Federal Correctional)
Institute Bennettsville,)
)
Defendants.)
_____)

This matter is before the Court because of the Plaintiff's failure to comply with the Magistrate Judge's Order of April 11, 2011.

A review of the record indicates that the Magistrate Judge ordered the Plaintiff to submit items needed to render this case into proper form within twenty-one days, and specifically informed the Plaintiff that if he failed to do so, this case would be dismissed *without prejudice*. The mail in which the Order was sent to the Plaintiff at the address provided when the case was filed has not been returned to the Court; thus, it is presumed that the Plaintiff received the Order but has neglected to comply with it within the time permitted under the Order.

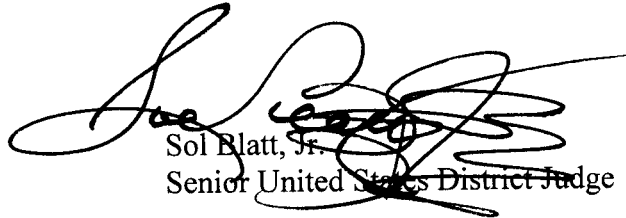
The Plaintiff's lack of response to the Order indicates an intent to not continue prosecuting this case, and subjects this case to dismissal. *See* Fed. R. Civ. P. 41(b) (stating that district courts may dismiss an action if a plaintiff fails to comply with "any order of the court."); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (stating that dismissal with prejudice is appropriate where warning is given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.

1982)(providing that the court may dismiss *sua sponte*).

Accordingly, this case is hereby dismissed *without prejudice*. The Clerk of Court shall close the file.¹

The Plaintiff's attention is directed to the important notice on the following page.

IT IS SO ORDERED.


Sol Blatt, Jr.
Senior United States District Judge

May 16, 2011
Charleston, South Carolina

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¹ Under General Order, Misc. No. 3:07-5014-JFA, this dismissal *without prejudice* does *not* count as a “strike” for purposes of the “three strikes” provision of 28 U.S.C. § 1915(g). If the Plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk’s Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.

A handwritten signature in black ink, appearing to be "J. 3" or similar, with a large loop at the bottom.